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OFFICE OF THE SECRETARY

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**VIA COURIER**

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
The Portals Complex  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Stop Code 1800D5  
Attn: Allocations Branch**

**Re: In the Matter of Amendment of Section 73.202(b), Table of  
Allotments (Thermopolis and Story, Wyoming)  
MM Docket No. 00-159, RM-9889**

Dear Ms. Salas:

On behalf of Legend Communications of Wyoming, L.L.C. ("*Legend*"), there is transmitted an original and four copies of its *Motion for Leave to File and Clarification* in the above-referenced matter.

No. of Copies rec'd 074  
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LEVENTHAL, SENTER & LERMAN P.L.L.C.

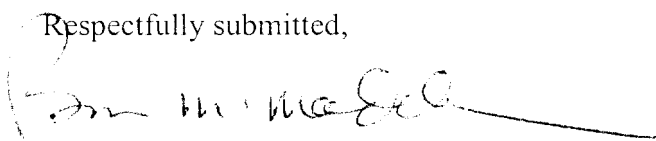
Ms. Magalie R. Salas

November 7, 2000

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If any additional information is desired in connection with this matter, please contact the undersigned counsel.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian M. Madden", with a long horizontal flourish extending to the right.

Brian M. Madden

Enclosures

cc: John Garziglia, Esq.  
Sharon P. McDonald, Esq.

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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

# Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),	)	MM Docket No. 00-159
Table of Allotments,	)	RM-9889
FM Broadcast Stations.	)	
(Thermopolis and Story, Wyoming)	)	

To: Chief, Allocations Branch

## MOTION FOR LEAVE TO FILE AND CLARIFICATION

Legend Communications of Wyoming, L.L.C. ("*Legend*"), permittee of Channel 252C2, Thermopolis, Wyoming (FCC File No. BPH-19971021MC) (the "*Station*"), by its attorneys, hereby requests leave to file a brief clarification of applicable Commission policy with respect to certain claims made in the *Reply Comments* filed on November 7, 2000, in this proceeding by Lovcom, Inc. ("*Lovcom*"), licensee of Stations KROE(AM), KZWY(FM) and KYTI(FM), Sheridan, Wyoming.

Lovcom has criticized Legend's engineering demonstration that its proposal for the allotment of Channel 252C1 at Story, Wyoming as that community's first local transmission service will eliminate a gray area and otherwise provide service to under-served populations. Lovcom contends that the use by Legend of the nighttime service areas for AM stations is "at odds with ... normal procedure ....," *Reply Comments, Engineering Statement of Mark A. Mueller*.

Further, Lovcom states that the use of maximum-versus-actual FM coverage renders Legend's analysis "erroneous," *Id.* at 1, and would provide "scant public interest benefits." *Id.* at 2. To the contrary, it is Lovcom that is in error -- Legend utilized the approved Commission procedures in undertaking its study of reception services in the gain and loss areas affected by the proposal.

The Commission has specified the methodology to be used to conduct reception service analyses in numerous rulemaking cases. This standard was recently set forth in the *Notice of Proposed Rule Making in Amendment of Section 73.202(b) (Woodville and Wells, Texas)*, MM Docket No. 00-171, DA 00-2146, released September 22, 2000, as follows:

Reception services are those aural services that can be received within a given geographical area, including full-time AM, as well as FM commercial stations. *In determining reception service provided by an FM station, the area of service circumscribed by the station's 1.0 mV/m signal contour, assuming maximum facilities for the class of station, except for Class C, should be considered. For the latter class, the minimum or existing Class C facilities, whichever is greater, should be used in the study.* The area of reception service for full-time AM stations is defined according to whether it is a clear channel Class AM station or another class of full-time AM station. For a clear channel Class A station, the reception area is defined by a station's 0.5 mV/m groundwave contour, based on its licensed facilities. *For all other classes of full-time AM stations, reception service is defined as that service received within a station's nighttime interference-free contour.* For purposes of determining the availability of aural services in the areas affected by the change of community proposal, the petitioner should include in its study the reception services provided by all relevant AM and FM stations. Reception areas that receive at least five radio services are considered to be well-served. See MM Docket No. 98-53, Malvern and Bryant, Arkansas, 13 FCC Rcd 8426 (1998).

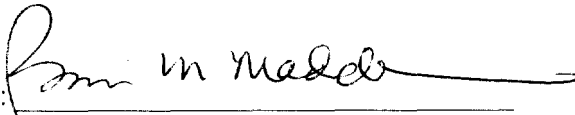
*Id.* at fn. 4 (emphasis supplied).

Legend followed these procedures exactly in preparing its analysis of reception services in the gain and loss areas. *Comments of Legend Communications of Wyoming, LLC, Technical*

*Statement* at fn. 2. The alternative engineering analysis submitted by Lovcom should be disregarded as it deviates from well-established Commission policies.

Respectfully submitted,

**LEGEND COMMUNICATIONS  
OF WYOMING, L.L.C.**

By: 

Brian M. Madden

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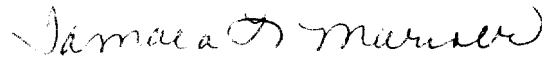
November 16, 2000

Its Attorneys

### **CERTIFICATE OF SERVICE**

I, Tamara L. Mariner, a secretary in the law firm of Leventhal, Senter & Lerman P.L.L.C., do hereby certify that on this 16th day of November, 2000, copies of the foregoing *Motion for Leave to File and Clarification* were mailed, postage prepaid, to the following:

John F. Garziglia, Esq.  
Patricia M. Chuh  
Pepper & Corazzini, LLP  
1776 K Street, N.W., Suite 200  
Washington, D.C. 20006-2334

A handwritten signature in cursive script, reading "Tamara L. Mariner", written in dark ink.

Tamara L. Mariner